

### **Remarks**

In response to the Office Action mailed December 28, 2006, the Applicant respectfully requests reconsideration in view of the following remarks. Claims 1-3 and 6-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hite et al. (of record, hereinafter “Hite”) in view of Ballard (of record) and further in view of Ficco (U.S. Pat. App. Pub. No. 2005/0166224). Claim 21 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hite in view of Ballard and further in view of Ficco and in further view of Esch et al. (U.S. Pat. No. 5,283,639).

### **Claim Rejections - 35 U.S.C. §103**

#### **Claims 1-3 and 6-11**

In the Office Action, claims 1-3 and 6-11 are rejected as being unpatentable over Hite in view of Ballard and further in view of Ficco. The rejection of these claims is respectfully traversed.

Independent claim 1 specifies a method for inserting targeted advertisements into a media delivery stream during broadcast media programming. The method includes: (a) storing data files representing a plurality of advertisements in a media delivery device in a database, wherein the stored advertisements are each of a type that is determined to appeal to one or more users of the media delivery device, (b) receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming, (c) inserting an advertisement stored in the database into the media delivery stream, and (d) transmitting a request from the media delivery device to an external network through a telecommunications link to receive the plurality of advertisements for storage in the media delivery device, and wherein the database includes a table for classifying the stored advertisements according to a plurality of categories, which includes a classification according to the type of advertisement that is stored, and wherein the signal includes at least one classification for one or more categories as

provided in the table for electing a commercial stored in the database for insertion into the media delivery stream.

It is respectfully submitted that neither Hite nor Ballard nor Ficco, alone or in combination, teach, disclose, or suggest each of the features specified in independent claim 1. For example, none of the aforementioned references discloses “receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming” and “wherein the signal includes at least one classification for one or more of the categories...for selecting a commercial stored in the database for insertion into the media delivery stream.” In the Office Action, it is alleged that the feature “receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming” is met by the commercial processor 438 of Figure 5. This allegation, however, is respectfully traversed. As noted in the Office Action, “the Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional Video Storage Device 456.” The Optional Video Storage Device 456 may either store or playback certain commercials under the control of signals conveyed by electrical and/or optical connection 462 from the Commercial Processor 438. Col. 14, lines 43-36.

Thus, Hite merely discloses that the optional video storage device may store or playback certain commercials under the control of signals conveyed from the commercial processor. Conversely, independent claim 1 specifies that a signal received in a media delivery device is utilized to insert a stored advertisement into a media delivery stream during broadcast media programming. As discussed above, Hite discloses the use of signals for storing or playing back certain commercials from the optional video storage device. Thus, there is no teaching or

suggestion in Hite of utilizing a signal to insert a stored advertisement into a media delivery stream during broadcast media programming. Since Hite fails to disclose a signal for inserting a stored advertisement into a media delivery stream during broadcast programming, then the reference also fails to disclose that the signal includes at least one classification for one or more of the categories...for selecting a commercial stored in the database for insertion into the media delivery stream, as specified in independent claim 1, as well.

As discussed in Applicant's previous response, Ballard, which deals with advertisements being provided to a computer for display, also fails to disclose a signal for instructing a media delivery device to insert a stored advertisement into a media stream during broadcast programming. Ficco, relied upon in the Office Action to cure the deficiencies of Hite and Ballard, discloses the adaptation of broadcast advertisements which are in the process of being sent to a broadcast audience or which have been previously sent and later queued for presentation to the audience. See paragraphs 7 and 13. Ficco, however, is only concerned with advertisements which have been previously sent or are in the process of being sent to a broadcast audience. Thus, Ficco fails to teach, disclose, or suggest receiving a signal in a media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming. In other words, since the advertisements disclosed by Ficco are in the process of being broadcast or have already been broadcast, they presumably are or already have been, incorporated within broadcast media programming.

Since, as discussed above, neither Hite nor Ballard nor Ficco, teach, suggest, or disclose each of the features of independent claim 1, this claim is allowable and the rejection of this claim should be withdrawn. Claims 2-3 and 6-11 depend from independent claim 1, and are thus

allowable for at least the same reasons. Therefore, the rejection of these claims should also be withdrawn.

### Claim 21

In the Office Action, claim 21 is rejected as being unpatentable over Hite in view of Ballard and further in view of Ficco and in further view of Esch. The rejection of this claim is respectfully traversed.

Independent claim 21 specifies a system for inserting television commercials stored locally in a television set top box into a media programming stream. The method includes: (a) a receiver for receiving broadcast media programming into the set top box, (b) a commercials database for storing advertisements in the set top box, (c) a commercials detector for detecting audio tones in broadcast media programming where one or more of the detected audio tones are substitution signals that indicate authorization for a local television station to insert a locally stored advertisement into the media stream, and (d) switching logic to interrupt a television connected to the set top box from the media programming stream and to temporarily decode a television commercial stored in the commercials database when a substitution signal is detected in the commercials detector.

It is respectfully submitted that neither Hite nor Ballard nor Ficco nor Esch, alone or in combination, teach, disclose, or suggest each of the features of independent claim 21. For example, none of the cited references disclose “a commercials detector for detecting audio tones in broadcast media programming that indicate authorization for a local television station to insert a locally stored advertisement into the media stream.” In the Office Action, it is alleged that the aforementioned feature is met by the commercial processor of Figure 5 in Hite. However, while Hite discloses signals conveyed by electrical and or optical connection to playback commercial

signals from the optional video storage device, there is no teaching or suggestion that these signals are from broadcast media programming or that they are audio tones. Furthermore, as discussed above with respect to independent claim 1, Hite discloses the use of signals for storing or playing back certain commercials from the optional video storage device and thus fails to teach, disclose, or suggest detecting audio tones indicating authorization for inserting a locally stored advertisement into a media stream.

With regard to Ballard, the commercials or advertisements are associated with a time when they are to be played back rather than being triggered by a detection of signals such as audio tones which include substitution signals and which are in broadcast media programming. Furthermore, with regard to Ficco, there is no disclosure of detecting audio tones which are in broadcast media programming, which indicate authorization for inserting a locally stored advertisement into a media stream.

Thus, in summary, neither Hite nor Ballard nor Ficco disclose audio tones which include substitution signals for inserting locally stored advertisements into a media stream. With regard to Esch, the reference discloses a cue decoding processor for the detection and discrimination of network cue signals such as coded dual tone multiple frequency (DTMF) signals or other information. The network cue signals are utilized by a cue decoding processor to generate insertion cue signals. See Col. 9, lines 22-34. Esch, however, fails to disclose detected audio tones which include substitution signals that indicate authorization for a local television station to insert a locally stored advertisement into a media stream, as specified in claim 21.

Based on the foregoing, it is respectfully submitted that Hite, Ballard, Ficco, and Esch, individually and in combination, fail to teach, disclose, or suggest each of the features specified

in claim 21. Therefore, claim 21 is allowable and the rejection of this claim should be withdrawn.

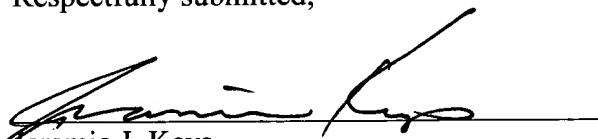
### **Conclusion**

In view of the foregoing amendments and remarks, this application is now in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicant's attorney at the number listed below.

At this time, no fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: March 28, 2006

  
Jeramie J. Keys  
Reg. No. 42,724

Withers & Keys, LLC  
P.O. Box 71355  
Marietta, GA 30007-1355  
(404) 849-2093